IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 865 of 1996

Between:

1 R. Yugandhar Rao S/o. Ramachander Rao, aged 34 years, Work

Inspector(Urban Nalgonda Section) A.P.Urban Development &

Housing Corporation Ltd., Nalgonda.
2 Gulam Dastagir Mujtaba, S/o. Gulam Waheed, aged 25 years,

Work Inspector, R/o. Nalgonda.
3 G. Narasimha, S/o. Mallaiah, aged 26 years, Occ:Non-Techinical

Work Inspector, Urban Nalgonda Section, R/o. Nalgonda.
4 S. Sathi Reddy, S/o. Venkat Reddy, aged about 35 years,

Draughtsman (Civil), Nalgonda Urban Section, R/o. Nalgonda.
5 T. Rama Raju, s/o. Hanumantha Raju, aged about 24 years, Work

Inspector, Miryalaguda Section, R/o Miryalguda, Nalgonda

District.
6 Syed Mukaram Baba, S/o. Syed Hasham,aged 25 years, Work

Inspector (Y), Nalgonda Urban Section, R/o. Nalgonda.
7 Mohd. Khaja Moinuddin, S/o. Mahboob Ali, aged 37 years, Non-n

Technical Work Inspector, APU & D.C. Suryapet, R/o. Suryapet,

Nalgonda District.
8 Mohd. Kaleemuddin, S/o. Mohd. Nazeeruddin, aged 25 years,

Technical Work Inspector, APU & D.C. Ltd., Suryapet, Nalgonda

District.
9 N. Srinivas Reddy, S/o. Ramchandra Reddy, aged 22 years, Non-

Technical Work Inspector, A.P.U & D.C. Ltd., Suryapet, Nalgonda

District.

..... PETITIONERS.

AND

1. The District Collector,/Executive Director, A.P.Urban

Development & Housing Corporation, Nalgonda.
(R1was dismissed for default as per court order

dt 22-3-2000)
2 The Ex-Officio District Manager, A.P. Urban Development

Corporation Limited, Nalgonda.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, particularly one in the nature of writ of Mandamus, declaring that the petitioners discontinuance in Service from October 1995 by the Deputy Executive Engineers in the absence of any written termination orders by the competent authority of the respondents, is invalid and consequently directing the respondents to continue the petitioners as Work Inspectors of the A.P. Urban Development & Housing Corporation Ltd., Nalgonda.

Counsel for the Petitioner:MR.C.NAGESWARA RAO

Counsel for the Respondent No.2: Mr.V.Ch.NAIDU, Standing Counsel for A.P.U.D.C.Ltd.,

The Court made the following :

ORDER:

The petitioners contend that the A.P.Urban Development and Housing

Corporation is a State Government undertaking and an Agency and instrumentality of the State. The petitioners claim to have been working as Work Inspectors and to have put in more than two years of service in the Corporation on daily wage basis, payable monthly. They assert to have been recommended for continuance in service by the concerned Deputy Executive Engineers and also assert that presumably on the instructions of the 2nd respondent, they were instructed by the Deputy Executive Engineers concerned not to continue in service. They admit that no order was communicated by the 2nd respondent discontinuing their services but state that they were orally discontinued since October, 1995 onwards. On the basis of the assertion that they were initially appointed and had put in more than two years of service as Work Inspectors temporarily and on monthly wages, they claim that there is no authority to terminate their services. They seek a declaration that their discontinuation from service since October, 1995 onwards, without any written orders, is invalid. They also seek further a direction to the Corporation to continue them in service as Work Inspectors.

If the A.P.Urban Development and Housing Corporation is an Agency and instrumentality of the State or a Public Corporation as asserted by the petitioners and admitted by the respondents, it is axiomatic that it is funded from the public exchequer. Employment, under such an organization or establishment, is public employment to which, all citizens qualified by whatever the norms or qualifications for recruitment that are prescribed, would be entitled to compete. A corollary obligation is there on the Corporation to make recruitment only in a public and transparent manner after duly specifying the qualifications and other norms for the various category of posts for which recruitment is resorted to. The clandestine method of identifying the vacancies and making private recruitment without a transparent process is blasphemous of the rule of law and the founding assumptions of our republic.

It would be a grave derailment of our Constitutional Government that such a Corporation flourish, which is unable since inception and till date, to function in accordance with the fundamental assumptions of our Constitutional order. It is unfortunate that the State Government which has apparently engendered the Corporation has blissfully slept over this vital defect in the functioning of the A.P.Urban Development and Housing Corporation. It would be a grave dereliction of public duties and responsibilities and abdication of essential sovereign functions if

the State fails to discipline its Corporations and ensure their functioning within the rule of Law norms.

It is neither pleaded, urged nor established before this Court either by the petitioners or the respondent Corporation that there rules were made for recruitment to the posts of Work Inspectors. It is also not stated whether there is a cadre strength in existence, whether qualifications have been prescribed for recruitment to the post of work Inspector, whether the posts have been advertised or at least sponsorship from the Employment Exchange has been solicited. The fact of the matter is that as per the record, the Corporation functioning on the expenditure of public funds is in a manner unknown to even minimal standards of public Law. Such situation cannot be permitted to persist.

The initial temporary recruitment of the petitioners being without any legitimacy by even the minimal standards of public institutional recruitments, no legal rights can accrue for regularization into public service on the foundation of such entry into public service. In the absence of any legal entitlement, no Mandamus can issue. No Statute or Statutory Instrument which has been violated in the discontinuance of the petitioners, has been urged for consideration by this Court. This Court on the above analysis, finds no legal platform on the basis of which a Mandamus could issue. There are no merits in the writ petition.

In the result, the writ petition is dismissed. No order as to costs.

A copy of this order be communicated by the Registry to the Chief Secretary to the Government of Andhra Pradesh for appropriate administrative action in the light of the observations made here with regard to the functioning of a State Government undertaking.

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GODA RAGHURAM, J

Dated: 07-10-2004.

Chvn.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER

To

1. The Chief Secretary, Govt. of A.P., Secretariate, Hyderabad.
2. The District Collector,/Executive Director, A.P.Urban Development & Housing Corporation, Nalgonda.
3. The Ex-Officio District Manager, A.P. Urban Development Corporation Limited, Nalgonda.
4. Two C.D.copies.